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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,794	02/20/2002	Isabelle Rebeaud	14926	7036

7590 02/13/2007

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EXAMINER	
TRAN LIEN, THUY	
ART UNIT	PAPER NUMBER
1761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/937,794	REBEAUD, ISABELLE	
	Examiner	Art Unit	
	Lien T. Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 8-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5, 8-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Persi in view of Viviano et al and Rahim.

Persi discloses a method of making a pizza food product. The method comprises the steps of shaping a dough into a rectangular shape, placing pizza ingredients along the central portion of the dough, folding the dough along its longitudinal length such that the long edges are in abutment, pressing the edges against each other so as to tight seal the ingredients and heating the filled dough product. The cooked product is packaged in suitable packaging material. (see columns 3-4)

Persi does not teach folding the dough after it is cooked and coating the edge with an edible paste of starch. Also, the Persi method comprises the additional step of forming a toroidal shape after folding the dough.

Viviano et al disclose a method of making filled food product. They teach to apply food starch to dough layers to help the dough regions to stick to each other. (see col. 6 lines 10-12)

Rahim teaches a process for producing pastry products. The process comprises the steps of forming dough dics having controlled thickness and diameter, cooking the dough dics, filling the dough dics and applying a pasting spray to seal the filling in the dough dics by closing the peripheral edges the dough layer around the filling material (see col. 1 lines 23-29, col. 2 lines 20-45, col. 4 lines 35-47, and claim 1)

It would have been obvious to one skilled in the art to omit the step of bringing the edges together to form a toroidal shape if one wants to make a rectangular

shape product. Such step only affects the shape of the product and not the type of product. As to the folding after cooking, these alternative steps of forming closed pockect product are known as shown by the Rahim reference which teaches folding and sealing with a paste after cooking. It would have been obvious to one skilled in the art to substitute one known processing technique for another known technique. The folding after cooking or before cooking gives the same product. In cooking, it is not uncommon to use known alternative steps to make the same product. The cooking of the product in an open face manner gives the advantage that the filled ingredients will be cooked in a shorter amount of time because they are not enclosed within the dough shell. Rahim teaches to apply a pasting; starch is well known to be used as adhesive as shown by Viviano et al. It would have been obvious to one skilled in the art to use starch as shown by Viviano et al to seal the edges of the dough layers when the dough is folded after cooking. It would have been obvious to apply the paste while the dough is hard to cause gelatinization of the starch so that the starch will cause adherence of the dough layers. It would also have been obvious to use flour as the alternative adhesive because flour contain starch.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Viviano.

Viviano et al disclose a filled pocket dough product. The product is formed by folding one portion of the dough over another portion to form a pocket enclosing the filling. The product is baked. In addition to other means of minimizing seal breaches,

Viviano et al teach to apply food starch to dough layers to help the layers to stick to each other. (see col. 3 lines 6-24, col. 6 lines 5-11)

The forming of the pouch in the hot fold in hot state by folding and rolling after cooking is a difference in processing steps which do not determine the patentablity of the product. The Viviano et al product is the same product as claimed; the product has a cordon of edible paste because Viviano et al teach to apply layer of food starch between the dough layers. As to the folding as recited in claim 10, it would have been obvious to one skilled in the art to use other fold depending on the look wanted for the product. The folding of longitudinal border and lateral borders to enclose the filling is well known in the art. This is done in making pastries containing filling.

In the response filed 11/24/06, applicant argues the process of Rahim is the same as Persi which requires pinching of the layers to maintain the filled material within the dough. This argument is not persuasive. First of all, there is no disclosure of pinching in Rahim and unlike Persi, Rahim teaches sealing the filling materials in the dough layers after the dough is cooked. Persi teaches folding and sealing before cooking. On column 2 lines 42-43, Rahim explicitly discloses " a folding mechanism then seals the filling into the pastry with the help of a pasting spray which can be applied during the folding process". The pasting spray helps the dough layers to adhere to each other. This is what takes place in the claimed process. The filling material in the claimed processed is sealed by both the folding and the applying of the paste; it is not seal from using the paste only. The folding covers the filling ingredients and the

paste helps the dough layers to adhere to each other. This concept is taught in Rahim. Thus, the step of applying an edible paste on the edge is taught in Rahim.

With respect to the Viviano et al reference, applicant argues the definition of cordon is " a cord, braid, a ribbon or the like used as a fastening agent" and the teaching of Viviano et al is not a cordon of edible paste. It is unclear where applicant's definition comes from. In any event, Viviano et al teach applying a starch layer to the dough regions to help them stick to each other; thus, it is a layer of starch between dough regions and it is an element of the final product because it is applied to the product. Thus, whether it is called a cordon or a paste or layer or not any specific name, it is the same thing.

Applicant's arguments filed 11/24/06 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

February 12, 2007

Lien Tran

LIEN TRAN
PRIMARY EXAMINER
Group 1707